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8 UNITED STATES DISTRICT COURT
9 WESTERN DISTRICT OF WASHINGTON
10 AT SEATTLE

11 STUART O'FARRELL,

12 v.
13 Plaintiff,

14 PARKER SMITH & FEEK INC.,

15 Defendant.

16 CASE NO. C17-637-MJP

17 ORDER ON JOINT LCR 37
18 SUBMISSION

19 THIS MATTER comes before the Court on the Parties' Joint LCR 37 Submission. (Dkt.
20 No. 18.) Having reviewed the submission and the related record, the Court ORDERS as follows:

21 **Interrogatory Nos. 4 and 7; Request for Production No. 18:** These requests seek
22 information and documents concerning other PSF shareholders and non-shareholder employees
23 who were terminated "for cause" from 2009 to the present. Mr. O'Farrell was a shareholder and
24 a participant in PSF's deferred compensation plan ("Plan"). (Dkt. No. 18 at 7.) The Plan
provides deferred compensation payments to shareholders terminated "without cause," but
denies payments to those who resign or are terminated "with cause." (*Id.*) The Plan defines
"cause" as "a fair and honest cause or reason, regulated by good faith on the part of the

1 Company.” (*Id.*) While Mr. O’Farrell contends that the Plan’s definition of “with cause” tracks
2 the applicable definition under state employment law, such that information concerning non-
3 shareholder employees is relevant, the Court disagrees. An inquiry into PSF’s definition of
4 “cause” is not relevant to Mr. O’Farrell’s ERISA claim.

5 To the extent they have not already done so, the Court ORDERS PSF to respond to
6 Interrogatory Nos. 4 and 7 and Request for Production No. 18, provided that these responses
7 shall be limited to shareholders.

8 **Interrogatory No. 6; Request for Production No. 10:** These requests seek information
9 and documents concerning J.M., a shareholder who was terminated for cause and who thereafter
10 entered into a confidential settlement with PSF. Mr. O’Farrell contends that this information is
11 relevant as to “whether PSF evenhandedly applied the Plan’s forfeiture provisions and
12 definitions of ‘cause’” and as to “the reasonableness of Mr. O’Farrell’s belief that PSF was
13 unlawfully discriminating against J.M.” (*Id.* at 13-14.)

14 The Court ORDERS PSF to respond to Interrogatory No. 6 and Request for Production
15 No. 10 with information and documents up until J.M.’s termination. PSF need not turn over the
16 confidential settlement agreement entered into following J.M.’s termination.

17 **Request for Production Nos. 15 and 16:** These requests seek documents related to any
18 complaint of discrimination, retaliation, or harassment, or any ERISA claim made by any
19 employee or shareholder against PSF from January 1, 2009 to the present.

20 PSF has indicated that it has already turned over all documents related to ERISA claims,
21 and that only one other “informal” complaint has been made. (*Id.* at 21-22.) This “informal”
22 complaint relates to gender discrimination and was made in June 2012. The Court finds that
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1 evidence of this complaint is not relevant, and that PSF has already turned over all relevant
2 information responsive to these requests.

3 The clerk is ordered to provide copies of this order to all counsel.

4 Dated July 10, 2018.

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7 Marsha J. Pechman
United States District Judge

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